

Exhibit E

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

HOBART CORPORATION, <i>et al.</i> ,)	CASE NO. 3:13-cv-115
)	
Plaintiffs,)	
)	JUDGE WALTER H. RICE
vs.)	
)	
THE DAYTON POWER & LIGHT)	
COMPANY, <i>et al.</i> ,)	
)	
Defendants.)	

DECLARATION OF JACK A. VAN KLEY

Pursuant to 28 U.S.C. § 1746, I, Jack A. Van Kley, declare the following:

1. I am trial counsel for Cargill, Incorporated in the above-captioned case.
2. I have personal knowledge of the facts stated herein.
3. I was also trial counsel for Cargill, Incorporated in *Hobart Corporation, et al.*

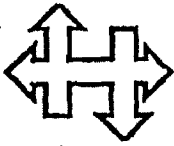
v. Waste Management of Ohio, Inc., et al., Case No. 3:10-cv-195 (U.S. Dist. Ct., S.D. Ohio, Western Division), a lawsuit that was filed by Plaintiffs Hobart Corporation, Kelsey-Hayes Company, and NCR Corporation against Cargill, Incorporated and other defendants requesting that those defendants be ordered to pay for the Plaintiffs' response costs related to the South Dayton Dump and Landfill Site. As part of their Initial Disclosures in that case, Plaintiffs' counsel produced two CD-ROMs of records, including 13,146 pages of records. The attached records with Bates numbers SDD_00203 through SDD_00207 were included in these records.

4. I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 13, 2013


JACK A. VAN KLEY

Exhibit E

E G
3/24/80ROBERT A. VOGEL, M.D.
HEALTH COMMISSIONERDIVISION OF ENVIRONMENTAL HEALTH
DAVID B. PEDEN, M.P.H., DIRECTOR
513 - 225-4443MONTGOMERY COUNTY
COMBINED GENERAL HEALTH DISTRICTCOUNTY GOVERNMENT PLAZA
451 WEST THIRD STREET
DAYTON, OHIO 45422BOARD OF HEALTH
DAVID ULRICH, D.D.S. -
PRESIDENT
MRS. MARTHA CARRICK -
VICE-PRESIDENT
HERMAN ABROMOWITZ, M.D.
MRS. MARIE DAUGHERTY
JOHN DOAN
MRS. VERDREE HARRIS
W. J. LEWIS, M.D.
EDWARD RAUSCH
CHARLES F. WILCHER, JR., D.O.

March 24, 1980

RECEIVED

MAR 26 1980

Ohio Environmental Protection Agency
SOUTHWEST DISTRICTMr. Russell A. Gilmore III
The Peerless Transportation Co.
214 South Perry Street
Dayton, Ohio 45402*File Montgomery Co
Solid Waste*

Re: Solid waste disposal

Dear Mr. Gilmore:

We recently learned that you are transporting white plaster dust from the Ohio Precision Castings, Inc. and disposing of it in your foundry sand disposal site on Brandt Pike. In addition we learned you anticipate transporting fly ash from Cargill, Inc. to this same site.

The Ohio EPA has determined that both these industrial wastes are "solid waste" and therefore must be disposed of in a licensed landfill. Your foundry sand disposal site is not licensed.

The fly ash can be taken to any licensed landfill that can handle it. In Montgomery County the following sites which are suitable:

1. North Sanitary Landfill, 4220 Pinnacle Rd., Moraine
2. Powell Road Landfill, 4060 Powell Rd., Wayne Twp.
3. South Dayton Landfill, 1975 Springboro Pike, Moraine
4. Moraine Materials - Dryden Rd. Complex, Rear of 3265 Dryden Rd., Moraine
5. Moraine Materials, Hurt B Pit, Farmington Rd., Miami Twp.

The white plaster dust may only be taken to the first three licensed landfills in Montgomery County.

SDD_00203

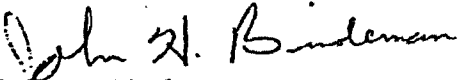
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Mr. Russell A. Gilmore III
March 24, 1980
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This letter shall be considered an official order to dispose of all fly ash and white plaster dust in a licensed landfill within seven (7) days. Authority for this order can be found in Section 3734.05, Ohio Revised Code.

If you have questions concerning this order, please call 225-4443.

Sincerely,


John H. Bindeman
Systems Analyst
JHB/bab

cc: Joe Moore

Exhibit E

Ohio EPA Inter-Office Communication*File Montgomery
Solid Waste*TO: Valerie BrinkerDATE: January 19, 1983FROM: Joe Moore *JM*SUBJECT: Cargill Co., Needmore Road, Montgomery County

This company has a history of indiscriminate dumping of its waste sludge.

The latest complaint concerns the open dumping of their material off 1901 Dryden Road. Doesn't this company need an acceptable plan for the disposal of its industrial waste?

dkp

*Problem Corrected
Not sludges but by-product for
reuse. Material has been removed.*

Exhibit E

OhioEPA

Re: Montgomery County
Solid Waste
Complaint

Elmer G. J.
file

Terry Wright
Supervisor of General Services
Montgomery County Health Department
County Government Plaza
P.O. Box 972
451 West Third Street
Dayton, Ohio 45422

January 14, 1983

Dear Terry:

We received a complaint (telephone) from Mr. Mel Levy, Manager, Valley Asphalt Company, 1901 Dryden Road, Phone 293-4119.

He is complaining about Cargill waste that was dumped on property near his headquarters off Dryden Road. The waste was apparently dumped last year (1982). He is complaining about the odors and flies as you would expect from an organic waste.

Your assistance in investigating this matter will be appreciated. If you have questions please call me.

Sincerely,

M. Joe Moore

M. Joe Moore, R.S.
Division of Land Pollution Control

MJM:lmr

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INT(2-OFFICE COMMUN^{10m} ATION*File Solid Waste*

TO: Dick Carlton, Wastewater DATE: April 19, 1979 *Montgomery Co.*

FROM: Joe Moore, Office of Land Pollution Control

SUBJECT: Cargill Inc., 3201 Needmore Road, Unapproved Sludge Disposal

This company continues to give its sludge to waste scavengers that dump it indiscriminately in ditches, along fence lines, etc.

Can't this company be made to develop an approved method of industrial sludge disposal (6111.45, 6111.46)?

The industrial waste section has dealt with this company and its "dumpers" before. There should be an industrial file regarding past problems and dealings.

For the latest unauthorized promiscuous dumping contact Rhoads Richardson with the Preble County Health Department.

MJM:nh

cc: C.M. Cooperrider

SDD_00207